

1 **AMENDMENTS TO SEX OFFENDER REGISTRY**

2 2002 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Afton B. Bradshaw**

5 **This act modifies the sex offender registration requirements to require registration for two**
6 **additional sexual offenses and to add procedures to track a sex offender's enrollment or**
7 **employment at an institution of higher education. This act provides a coordination clause.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **77-27-21.5**, as last amended by Chapter 4, Laws of Utah 2001, First Special Session

11 *Be it enacted by the Legislature of the state of Utah:*

12 Section 1. Section **77-27-21.5** is amended to read:

13 **77-27-21.5. Sex offender registration -- Information system -- Law enforcement and**
14 **courts to report -- Registration -- Penalty -- Effect of expungement.**

15 (1) As used in this section:

16 (a) "Department" means the Department of Corrections.

17 (b) "Employed" or "carries on a vocation" includes employment that is full time or part
18 time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days
19 during any calendar year, whether financially compensated, volunteered, or for the purpose of
20 government or educational benefit."

21 ~~(b)~~ (c) "Notification" means a person's acquisition of information from the department
22 about a sex offender, including his place of habitation, physical description, and other information
23 as provided in Subsections (11) and (12).

24 ~~(c)~~ (d) "Register" means to comply with the rules of the department made under this
25 section.

26 ~~(d)~~ (e) "Sex offender" means any person:

27 (i) convicted by this state of:



28 (A) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor over
29 the Internet;

30 (B) Section 76-5-301.1, kidnapping of a child;

31 (C) a felony violation of Section 76-5-401, unlawful sexual activity with a minor;

32 (D) Section 76-5-401.1, sexual abuse of a minor;

33 (E) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

34 (F) Section 76-5-402, rape;

35 (G) Section 76-5-402.1, rape of a child;

36 (H) Section 76-5-402.2, object rape;

37 (I) Section 76-5-402.3, object rape of a child;

38 (J) a felony violation of Section 76-5-403, forcible sodomy;

39 (K) Section 76-5-403.1, sodomy on a child;

40 (L) Section 76-5-404, forcible sexual abuse;

41 (M) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

42 (N) Section 76-5-405, aggravated sexual assault;

43 (O) Section 76-5-413, custodial sexual relations or misconduct with a youth receiving state
44 services;

45 [~~(O)~~] (P) Section 76-5a-3, sexual exploitation of a minor;

46 [~~(P)~~] (Q) Section 76-7-102, incest;

47 [~~(Q)~~] (R) Section 76-9-702.5, lewdness involving a child;

48 (S) a second degree felony violation of Section 76-10-1206, dealing in material harmful
49 to a minor;

50 [~~(R)~~] (T) Section 76-10-1306, aggravated exploitation of prostitution; or

51 [~~(S)~~] (U) attempting, soliciting, or conspiring to commit any felony offense listed in
52 Subsection (1)[~~(d)~~] (e)(i)[~~(A), (B), (C), (E) through (P), or (R)~~];

53 (ii) convicted by any other state or the United States government of an offense which if
54 committed in this state would be punishable as one or more of the offenses listed in Subsection
55 (1)[~~(d)~~] (e)(i) and who is:

56 (A) a Utah resident; or

57 (B) not a Utah resident, but who is in the state for a period exceeding 14 consecutive days,
58 or for an aggregate period exceeding 30 days, during any calendar year; or

59 (iii) who is found not guilty by reason of insanity of one or more offenses listed in
60 Subsection (1)~~(d)~~ (e)(i).

61 (2) The department, to assist in investigating sex-related crimes and in apprehending
62 offenders, shall:

63 (a) develop and operate a system to collect, analyze, maintain, and disseminate information
64 on sex offenders and sex offenses; and

65 (b) make information collected and developed under this section available to the public.

66 (3) Any law enforcement agency shall, in the manner prescribed by the department, inform
67 the department of:

68 (a) the receipt of a report or complaint of an offense listed in Subsection (1)~~(d)~~ (e), within
69 three working days; and

70 (b) the arrest of a person suspected of any of the offenses listed in Subsection (1)~~(d)~~ (e),
71 within five working days.

72 (4) Upon convicting a person of any of the offenses listed in Subsection (1)~~(d)~~ (e), the
73 convicting court shall within three working days forward a copy of the judgment and sentence to
74 the department.

75 (5) A sex offender in the custody of the department shall be registered by agents of the
76 department upon:

77 (a) being placed on probation;

78 (b) commitment to a secure correctional facility operated by or under contract to the
79 department;

80 (c) release from confinement to parole status, termination or expiration of sentence, or
81 escape;

82 (d) entrance to and release from any community-based residential program operated by or
83 under contract to the department; or

84 (e) termination of probation or parole.

85 (6) A sex offender not in the custody of the department and who is confined in a
86 correctional facility not operated by or under contract to the department shall be registered with
87 the department by the sheriff of the county in which the offender is confined upon:

88 (a) commitment to the correctional facility; and

89 (b) release from confinement.

90 (7) A sex offender committed to a state mental hospital shall be registered with the
91 department by the hospital upon admission and upon discharge.

92 (8) A sex offender convicted by any other state or by the United States government is
93 required to register under Subsection (1)~~(f)~~ (e)(ii) and shall register with the department within
94 ten days after entering the state.

95 (9) (a) Except as provided in Subsections (9)(b) and (c), a sex offender shall, for the
96 duration of the sentence and for ten years after termination of sentence, register annually and again
97 within ten days of every change of his place of habitation.

98 (b) (i) A sex offender convicted of any of the offenses listed in Subsection (9)(b)(ii) shall,
99 for the offender's lifetime, register annually and again within ten days of every change of the
100 offender's place of habitation. This registration requirement is not subject to exemptions and may
101 not be terminated or altered during the offender's lifetime.

102 (ii) Offenses referred to in Subsection (9)(b)(i) are:

103 (A) any offense listed in Subsection (1)~~(f)~~ (e) if the offender has previously been
104 convicted of an offense listed in Subsection (1)~~(f)~~ (e);

105 (B) Section 76-5-402.1, rape of a child;

106 (C) Section 76-5-402.3, object rape of a child;

107 (D) Section 76-5-403, forcible sodomy;

108 (E) Section 76-5-403.1, sodomy on a child; and

109 (F) Section 76-5-405, aggravated sexual assault.

110 (c) Notwithstanding Subsections (9)(a) and (b), a sex offender who is confined in a secure
111 facility or in a state mental hospital is not required to register annually.

112 (10) An agency in the state that registers a sex offender on probation, a sex offender who
113 has been released from confinement to parole status or termination, or a sex offender whose
114 sentence has expired shall inform the offender of the duty to comply with the continuing
115 registration requirements of this section during the period of registration required in Subsection
116 (9), including:

117 (a) notification to the state agencies in the states where the registrant presently resides and
118 plans to reside when moving across state lines;

119 (b) verification of address at least every 60 days pursuant to a parole agreement for lifetime
120 parolees; and

121 (c) notification to the out-of-state agency where the offender is living, whether or not the
122 offender is a resident of that state.

123 (11) A sex offender shall provide the department with the following information:

124 (a) all names or aliases the sex offender is or has been known by;

125 (b) the sex offender's name and residential address;

126 (c) a physical description, including the sex offender's age, height, weight, eye and hair
127 color;

128 (d) the type of vehicle or vehicles the sex offender drives; [~~and~~]

129 (e) a current photograph of the sex offender[-]; and

130 (f) each institution of higher education in Utah at which the sex offender is employed,
131 carries on a vocation, or is a student, and any change of enrollment or employment status of the
132 sex offender at any institution of higher education.

133 (12) The department shall:

134 (a) provide the following additional information when available:

135 [~~(a)~~] (i) the crimes the sex offender was convicted of; and

136 [~~(b)~~] (ii) a description of the sex offender's primary and secondary targets[-]; and

137 (b) ensure that the registration information collected regarding a sex offender's enrollment
138 or employment at an institution of higher education is:

139 (i) promptly made available to any law enforcement agency that has jurisdiction where the
140 institution is located; and

141 (ii) entered into the appropriate state records or data system.

142 (13) (a) A sex offender who knowingly fails to register under this section is guilty of a
143 class A misdemeanor and shall be sentenced to serve a term of incarceration for not fewer than 90
144 days and also at least one year of probation.

145 (b) Neither the court nor the Board of Pardons and Parole may release a person who
146 violates this section from serving a term of at least 90 days and of completing probation of at least
147 one year. This Subsection (13)(b) supersedes any other provision of the law contrary to this
148 section.

149 (14) Notwithstanding Title 63, Chapter 2, Government Records Access and Management
150 Act, information in Subsections (11) and (12) collected and released under this section is public
151 information.

152 (15) (a) If a sex offender is to be temporarily sent outside a secure facility in which he is
153 confined on any assignment, including, without limitation, firefighting or disaster control, the
154 official who has custody of the offender shall, within a reasonable time prior to removal from the
155 secure facility, notify the local law enforcement agencies where the assignment is to be filled.

156 (b) This Subsection (15) does not apply to any person temporarily released under guard
157 from the institution in which he is confined.

158 (16) Notwithstanding Sections 77-18-9 through 77-18-14 regarding expungement, a person
159 convicted of any offense listed in Subsection (1)(~~d~~) (e) is not relieved from the responsibility to
160 register as required under this section.

161 (17) Notwithstanding Section 42-1-1, a sex offender:

162 (a) may not change his name:

163 (i) while under the jurisdiction of the department; and

164 (ii) until the registration requirements of this statute have expired; or

165 (b) may not change his name at any time, if registration is under Subsection (9)(b).

166 (18) The department may make rules necessary to implement this section, including:

167 (a) the method for dissemination of the information; and

168 (b) instructions to the public regarding the use of the information.

169 (19) Any information regarding the identity or location of a victim shall be redacted by the
170 department from information provided under Subsections (11) and (12).

171 (20) Nothing in this section shall be construed to create or impose any duty on any person
172 to request or obtain information regarding any sex offender from the department.

173 (21) If the department chooses to post registry information on the Internet, the website
174 shall contain a disclaimer informing the public of the following:

175 (a) the information contained on the site is obtained from sex offenders and the department
176 does not guarantee its accuracy;

177 (b) members of the public are not allowed to publicize the information or use it to harass
178 or threaten sex offenders or members of their families; and

179 (c) harassment, stalking, or threats against sex offenders or their families are prohibited
180 and doing so may violate Utah criminal laws.

181 (22) The department shall construct the website so that users, before accessing registry
182 information, must indicate that they have read the disclaimer, understand it, and agree to comply

183 with its terms.

184 (23) The department, its personnel, and any individual or entity acting at the request or
185 upon the direction of the department are immune from civil liability for damages for good faith
186 compliance with this section and will be presumed to have acted in good faith by reporting
187 information.

188 (24) The department shall redact information that, if disclosed, could reasonably identify
189 a victim.

190 Section 2. **Coordination clause.**

191 If S.B.11, Prohibiting Intimacy With Youth Receiving State Services, does not pass, it is
192 the intent of the Legislature that Subsection 77-27-21.5(1)(e)(i)(O) be removed from this bill and
193 that the remaining subsections be renumbered accordingly.

Legislative Review Note
as of 12-28-01 3:31 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel